TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
ERIC A. VANDERWERFF, DC

Respondent Name
TRAVELERS INDEMNITY CO

MFDR Tracking Number
M4-14-2823-01

Carrier's Austin Representative
Box Number 05

MFDR Date Received
MAY 13, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier's position is that they spoke with the requesting provider and had a mutual agreement to modify the number of units that were requested down to 4 per visit. Dr. Oscar Kirksey noted in the pre-authorization letter that his conversation took place on 5/29/13 at 3:00pm and that he spoke with Dr. Vanderwerff. Millenium Chiropractic is disputing that the conversation between Oscar Kirksey DC…and Dr. Vanderwerff was never about modifying the pre-authorization request."

Requestor's Supplemental Position Summary: "This profoundly dishonest carrier has not provided ANY argument to me or to MFDR as to how or why they should be lawfully relieved from having to pay for these pre-authorized services."

Amount in Dispute: $431.16

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Provider requested preauthorization for six sessions of physical therapy with six therapies each session. After a discussion between the requesting Provider and the physician reviewer, approval for six sessions of physical therapy with four therapies per session was given. The preauthorization approval letter was issued stating the same. The Provider, however, performed five therapies per sessions and submitted billing for the services. The Carrier reviewed the billing and reimbursed for four therapies for each date of service, but denied reimbursement for the remaining therapies as they exceeded the preauthorization approval…Concerns regarding the number of approved therapies should have been raised prior to the services being rendered. No additional reimbursement is due for the disputed services."

Response Submitted by: William E. Weldon/Travelers

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 10, 2013 June 12, 2013 June 14, 2013 June 17, 2013	CPT Code 97140-59-GP Manual therapy techniques (eg, mobilization/ manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes	$42.50/ea	$36.83 X 6 = $220.98

June 19, 2013 July 22, 2013	CPT Code 97110-GP (X4) Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility	$29.36/ea	$0.00
TOTAL		$431.16	$220.98

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.600 requires preauthorization for physical therapy services.
3. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - 119, 309-Charge exceeds fee schedule allowance.
   - 168-Exceeds daily maximum PT allowance.
   - W1-Workers compensation state fee schedule adjustment.

Issues

1. Does a preauthorization issue exist in this dispute?
2. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason code "168." The respondent contends that reimbursement is not due because "approval for six sessions of physical therapy with four therapies per session was given."

   28 Texas Administrative Code §134.600(p) states, "Non-emergency health care requiring preauthorization includes: (5) physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A) Level I code range for Physical Medicine and Rehabilitation, but limited to: (i) Modalities, both supervised and constant attendance; (ii) Therapeutic procedures, excluding work hardening and work conditioning."

   On May 29, 2013, the respondent gave preauthorization approval for "6 visits of PT (2x3) with 4 units of cpt codes per visit to be chosen from (97110) therapeutic exercise, (97140) manual therapy, (G0281) Russian Stim and (97112) neuro-muscular rehabilitation."

   28 Texas Administrative Code §134.600(q) states, "The health care requiring concurrent review for an extension for previously approved services includes: (3) physical and occupational therapy services as referenced in subsection (p)(5) of this section."

   On July 16, 2013, the respondent gave preauthorization approval for "4 sessions of : Chiropractic spinal adjustments; Joint mobilization; myofascial therapy; Rehabilitative exercises – 4 units… Total of 4 Sessions for spinal adjustments; joint mobilization; myofascial therapy; and Rehabilitative Exercises – 4 units, Neuromuscular Re-Education. 'Russian' Electric Muscle Stimulation is not recommended per ODG. All other therapy is approved along with the manipulations."

   A review of the submitted bills and EOBs finds that the respondent paid for three of the four preauthorized physical therapy services, 97110 (X4), G0281, and 97112 on the disputed dates of service. The Division finds that code 97140 was preauthorized and that reimbursement is due.

2. The requestor is seeking additional reimbursement for code 97110 (X4) and 97140.

   28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

   Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
   (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.
   (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

   CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011 which states in part "Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings." The multiple procedure rule discounting applies to the disputed service.

   To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

   Review of Box 32 on the CMS-1500 the services were rendered in zip code 75061, which is located in Irving, Texas; therefore, the Medicare participating amount is based on locality "Dallas, Texas".

   The 2013 DWC conversion factor for this service is 55.3.

   The 2013 Medicare Conversion Factor is 34.023

   Using the above formula and multiple procedure rule discounting policy, the Division finds the MAR is:

Date	Code	MAR	Paid	Total Due
June 10, 2013 through July 22, 2013	97110 (X4)	$156.28	$157.68	$0.00
June 10, 2013 through July 22, 2013	97140	$36.83	$0.00	$36.83 X 6 dates = $220.98

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $220.98.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $220.98 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		12/09/2015
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.